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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/876,554	06/07/2001	Izuo Iida	10417-084001 / F51-134741	7779
26211	7590	10/15/2003	EXAMINER	
FISH & RICHARDSON P.C. 45 ROCKEFELLER PLAZA, SUITE 2800 NEW YORK, NY 10111			RICHARDS, N DREW	
			ART UNIT	PAPER NUMBER
			2815	

DATE MAILED: 10/15/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action**

Application No.

09/876,554

Applicant(s)

IIDA, IZUO

Examiner

N. Drew Richards

Art Unit

2815

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 23 September 2003 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

**PERIOD FOR REPLY** [check either a) or b)]

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. **ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).**

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on \_\_\_\_\_. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☒ The proposed amendment(s) will not be entered because:
- (a) ☒ they raise new issues that would require further consideration and/or search (see NOTE below);
- (b) ☐ they raise the issue of new matter (see Note below);
- (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
- (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: See Continuation Sheet.

3. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.
4. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☒ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: \_\_\_\_\_.

Claim(s) objected to: \_\_\_\_\_.

Claim(s) rejected: 1,3 and 11-16.

Claim(s) withdrawn from consideration: 4-10,16 and 17.

8. ☐ The proposed drawing correction filed on \_\_\_\_\_ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☒ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). 13.
10. ☐ Other: \_\_\_\_\_

  
**GEORGE ECKERT**  
**PRIMARY EXAMINER**

Continuation of 2. NOTE: The amendment to claim 16 requires further search and/or consideration since the limitation of selectively etching the tunnel insulating film except from on the region of the substrate where the MOS transistor is to be formed is a new limitation that has not previously been searched and/or considered..

Continuation of 5. does NOT place the application in condition for allowance because: Applicant argues that the combined teachings of Komori et al. with Hsieh et al. do not teach selectively forming a gate insulating film on the region where the MOS transistor is to be formed. This is not persuasive because the combined references do teach this. Komori et al. teach simultaneously forming the oxide film on the floating gate and the gate insulating film of the MOS transistor. Hsieh et al. teach selectively forming the oxide film on the floating gate of the non-volatile memory cell transistor by masking with a nitride and a photoresist mask. In combining the selective oxidation of Hsieh et al. with the simultaneous oxidation of Komori et al., one would form the nitride and photoresist masks such that they left the portion where the floating gate was to be formed and the region where the gate insulator was to be formed exposed so that the single oxidation step could still be used to simultaneously form both the oxide film and the gate insulating film. The oxidation step would then necessarily be selective to both the oxide film on the floating gate and the gate insulating film of the MOS transistor. With a mask applied over parts of the substrate, the oxidation that takes place in the unmasked portions is necessarily selective as it does not oxidize where the mask is applied.